

April 22, 2008

TO: Mr. Allan Jacobson
Employee Relations Specialist
Washington Public Employees Association (WPEA)

FROM: Teresa Parsons
Director's Review Program Supervisor

SUBJECT: Stephen Burinsky v. Department of Natural Resources
Allocation Review Request ALLO-06-045

On February 8, 2008, I conducted a Director's review meeting at the Department of Personnel, 2828 Capitol Boulevard, Olympia, Washington, concerning the allocation of Mr. Burinsky's position. Present at the Director's review meeting were you and Mr. Burinsky; Senior Human Resource Consultants Shea Richardson and Tom Hoffer, representing the Department of Natural Resources (DNR). Jim Shank, Yacolt District Manager, also participated by telephone conference call. Mr. Shank indicated he was the only individual present in the room where he was participating via telephone. Prior to starting the conference, I clarified that the Director's review conference was informal and that no recording devices were being used by any of the parties.

Background

At the outset of the conference, you provided some background with respect to Mr. Burinsky's work history. You indicated Mr. Burinsky had previously worked in a Forester 1 position (later replaced by the Natural Resource Specialist 1 class) but was reassigned to a Forest Technician position in 2001.

On September 18, 2006, Mr. Burinsky submitted a Position Review Request (PRR) to DNR's Human Resources Division, requesting that his Forest Technician position (#6676) be reallocated to the Natural Resource Specialist 1 (NRS 1) classification. On December 15, 2006, Ms. Richardson issued an allocation determination, indicating Mr. Burinsky's position was properly allocated to the Forest Technician classification. Ms.

Richardson acknowledged Mr. Burinsky had previous experience as a Forester 1 and that as a team member he provided input. However, Ms. Richardson concluded his assignment of work, as documented in the Position Description Form and confirmed by his supervisor, reflected technical duties consistent with the Forest Technician classification.

On December 26, 2006, the Department of Personnel received Mr. Burinsky's request for a Director's review of DNR's allocation determination.

Summary of Mr. Burinsky's Perspective

Mr. Burinsky asserts the duties assigned to his position did not change after he was assigned to the Forest Technician position in 2001. Mr. Burinsky contends he performs the same duties as Natural Resource Specialist 1 positions working in the field on timber sale preparations. Mr. Burinsky states that as a group, he and the Natural Resource Specialist 1s receive a packet of information from the Natural Resource Specialist 2 assigned to manage the timber sale. While Mr. Burinsky acknowledges he does not initially receive the packet or sign off on the packet after completion, he contends he provides much of the expertise going into the timber sale documentation. Mr. Burinsky further contends he "supervises" Natural Resource Specialist 1s in the field, providing guidance and leadership based on his knowledge and experience and their inexperience.

Mr. Burinsky asserts he has been told to supervise these positions in the field and that he is often asked to perform Natural Resource Specialist 1 level field tasks such as locating a difficult road. Mr. Burinsky contends he has received no guidance or supervision while working in the field and asserts it is his responsibility to train Natural Resource Specialist 1s who need help laying out a timber sale. Mr. Burinsky believes he should be compensated at the level of work he performs, which he describes as the Natural Resource Specialist 1.

Summary of DNR's Reasoning

DNR acknowledges Mr. Burinsky previously held a position as a Forester 1 and that he has knowledge and experience in that area. However, DNR contends Mr. Burinsky has specifically been assigned to a Forest Technician position. As such, DNR asserts the duties and responsibilities assigned to his position are outlined on the Position Description Form (PDF). DNR disagrees with much of the content in the PRR, as described by Mr. Burinsky. DNR asserts the written response by his supervisor supports the scope and level of duties identified on the PDF. DNR asserts Mr. Burinsky's assigned duties involve the technical aspects of performing forestry tasks rather than the technical and professional mix of duties assigned to Natural Resource Specialist 1 positions. For example, DNR states Mr. Burinsky will tag certain areas, once identified or as directed by a Natural Resource Specialist 1, and collect data using technical equipment such as a GPS device. While DNR recognizes Mr. Burinsky contributes to the

team, the department maintains that his role is to assist the Natural Resource Specialist 1 positions. DNR asserts Mr. Burinsky has not been assigned independent, ultimate responsibility for tasks at the Natural Resource Specialist 1 level and contends he has not been asked to supervise Natural Resource Specialist positions. DNR contends Mr. Burinsky's assignment of work fits the Forest Technician classification.

Director's Determination

This position review was based on the work performed for the six-month period prior to September 18, 2006, the date the Human Resources Division received Mr. Burinsky's Position Review Request.

As the Director's designee, I carefully considered all of the documentation in the file, the exhibits presented during the Director's review meeting, and the verbal comments provided by both parties. Based on my review and analysis of Mr. Burinsky's assigned duties and responsibilities, I conclude his position is properly allocated to the Forest Technician classification.

Rationale for Determination

The Position Description Form (PDF) is the document outlining the duties and responsibilities assigned to a position. The position description serves the same purpose as the former classification questionnaire. Both the former Personnel Appeals Board (PAB) and the Personnel Resources Board (PRB) have held the following:

. . . because a current and accurate description of a position's duties and responsibilities is documented in an approved classification questionnaire, the classification questionnaire becomes the basis for allocation of a position. An allocation determination must be based on the overall duties and responsibilities as documented in the classification questionnaire. Lawrence v. Dept of Social and Health Services, PAB No. ALLO-99-0027 (2000).

The Position Review Request (PRR) provides a mechanism for an employee to explain information about a position when requesting reallocation. The PRR is reviewed in conjunction with the supervisor's responses regarding the assignment of work. In reviewing Mr. Burinsky's PRR, there are discrepancies between his characterization of the work being performed and management's assignment of work, as documented on the PDF.

For example, Mr. Burinsky describes his position's purpose, in part, as *preparing timber sales by locating new sale area boundaries and assisting with preparing appraisals and contract proposals. Mr. Burinsky also states that he locates new roads at all levels of difficulty; designs forest haul roads; maintains timber sale statistics; recommends*

changes to plans; schedules and plans assigned activities; and authors silvicultural prescriptions, based on independent field review. He also states that he is responsible for training new employees in the process of timber sale layout and design, road locating and design, and habitat protection measures (Exhibit B-2).

In his written response to the PRR, Mr. Burinsky's supervisor, Natural Resource Specialist 2 Jon Paul Anderson, emphasized the assisting nature of his work when he wrote, "[t]his statement should say 'assist with boundary location, road location, etc.'". Mr. Anderson also stated that the work was performed under the guidance of a Natural Resource Specialist 2 or 1. In addition, Mr. Anderson wrote, in part, the following statements (Exhibit B-3):

- Steve makes no independent decisions on boundary location . . .
- Field inspections are done under the guidance of an NRS 1 or 2.
- Steve does not prepare reports or analyze any conditions.
- Steve does not schedule activities or write site specific silviculture prescriptions . .
- Steve is not responsible for training new employees and has no supervisory role in his position.
- Steve performs technical forestry skills as assigned in his PDF.

During the Director's review conference, Mr. Anderson's supervisor, Yacolt District Manager Jim Shank, indicated that as the supervisor, Mr. Anderson, like many Natural Resource Specialist 2s, typically worked in the office and assigned the layout of the timber sale as a packet to the Natural Resource Specialist 1 positions in the field. Mr. Shank further indicated that Mr. Burinsky's work was assigned through the Natural Resource Specialist 1 positions and that he worked as part of a team, providing assistance to those Natural Resource Specialist 1s.

Mr. Shank indicated there were various phases of working a timber sale, including locating boundaries and roads, marking with tags, and traversing (described as a technical duty related to measuring distance and length using certain equipment). Mr. Shank indicated that the field positions, including Mr. Burinsky's, operated as a team throughout the various phases of work. As a result, Mr. Burinsky did in fact provide input and recommendations and may have also provided technical assistance, such as showing one of the team members how to use a GPS device or enter data. However, Mr. Shank considered Mr. Burinsky's assigned duties to be technical in nature. For example, Mr. Shank indicated that Mr. Burinsky's position heavily involved collecting and compiling data and handling computer inventory data.

As part of that data collection, Mr. Shank explained that Mr. Burinsky may go out to a stream, for instance, and perform measurements. He may also put tags in certain locations. However, like Mr. Anderson, Mr. Shank stated that Natural Resource Specialist 1 positions carried the responsibility of determining boundary locations. In terms of a timber sale assignment, Mr. Shank clarified that all team members may

perform some portions of the job but the Natural Resource Specialist 1 positions are assigned responsibility for the professional aspects of working the sale, such as dealing with some of the documentation related to forest practices.

Both Mr. Anderson and Mr. Shank considered the PDF to be an accurate reflection of Mr. Burinsky's assigned work.

The PDF summarizes the scope of Mr. Burinsky's position as follows (Exhibit B-4):

Works as a crew member performing technical forestry tasks in the area of timber sale preparation. Collects, compiles and computes inventory data in identified young stands and recommends investment prescription for density management.

The majority of work described on page three of the PDF includes the following typical duties:

- Traversing and marking designated unit boundaries and roads;
- Interpreting aerial photos for various stand conditions and acreage determination;
- Assisting foresters in locating and marking riparian areas, unstable slopes, sensitive areas, and wildlife reserve trees;
- Cruising timber
- Collecting, compiling, and computing data for variable density harvests and making prescription recommendations.

When comparing the assignment of work to the class specifications, the duties and level of responsibility are consistent with the definition of a Forest Technician, which states that positions perform "technical forestry assignments in a geographic area within a district." Additionally, positions typically lead natural resource workers, forest laborers, and seasonal crews. Although Mr. Burinsky's PDF indicates he has not been assigned lead responsibility (Exhibit B-4, page 2), the Forest Technician class specification recognizes positions at this level may lead natural resource workers, forest laborers, and seasonal crews.

While typical work examples do not form the basis for an allocation, they lend support to the work envisioned within a classification. The typical work identified at the Forest Technician level includes locating and marking timber sale boundaries and access roads; cruising timber; collecting, compiling, and computing data for timber sales; and observing and reporting sale progress. Mr. Burinsky has been assigned similar duties.

The class series concept for the Natural Resource Eco-System Management series is broad and encompasses other types of natural resource-related positions. Specifically, the class series concept reads as follows:

Positions in this category perform specialized assignments in various natural resource disciplines. Incumbents serve as foresters, land managers, program

coordinators, program specialists, project and/or section administrators, district managers, or ecology supervisors. Services provided and duties performed include, but are not limited to, the following: coordinating and/or planning forest eco-system programs; coordinating and performing technical contract management and land development activities; coordinating various natural resource programs; serving as a designated staff for a specialized portion of a natural resource program; performing managerial functions for a natural resource program activity; managing work within a section/district; or serving as a unit supervisor of professional environmental staff involved in an environmental program.

Note: The examples of work listed in the class specifications are not necessarily descriptive of any one position in the class. The omission of specific statements does not preclude management from assigning specific duties not listed. The intent of the listed examples is to give a general indication of the levels of difficulty and responsibility common to all positions in the class.

The distinguishing characteristics of the Natural Resource Specialist 1 states that positions "coordinate and perform professional and skilled technical forestry or contract management and land development assignments in a geographic area within a district." Positions at this level may also lead other professional and skilled technicians and supervise seasonal crews. The examples of work include the following:

- Preparing timber sales; locating sale boundaries, preparing appraisals and contract proposals; designing forest haul roads, maintaining timber sale statistics and market data;
- Advising logging contractors regarding timber sales contract provisions; inspecting logging operations to enforce contract provisions;
- Inspecting, evaluating, and preparing leases;
- Analyzing and evaluating environmental impacts of forest practices;
- Providing advice and assistance regarding implementation of Forest Practices Act;
- Directing crews and equipment in fire prevention;
- Conducting forest studies of a technical nature to facilitate statewide forest management programs;
- Conducting field inspections and gathering data for use in land evaluation studies; completing surveys locating property lines and site conditions; preparing maps

and reports describing and analyzing observed conditions such as accessibility, terrain, vegetation, soils, local crops and tilling practices, area developments and use practices; identifying need for special studies;

- Assembling data and drafts project proposals for land improvements, which include a description of the work to be done, present and proposed use, cost and benefit, local interest and work proposed priority;
- Drafting contracts for the lease of state-owned land;
- Inspecting lands under lease; coordinating inspections;
- Investigates instances of apparent trespass;

While I acknowledge that some of the work examples may overlap between the Natural Resource Specialist 1 and the Forest Technician, the Natural Resource Specialist 1 has the responsibility for coordinating the professional aspects of the job and ensuring the paperwork related to the timber sales are completed and signed. In addition, Mr. Shank clarified that in the field setting, a Forest Technician provides input and assists but NRS 1 and 2 positions have ultimate responsibility. As an example, Mr. Shank explained that Mr. Burinsky, as a Forest Technician, may help locate a specific boundary but an NRS 1 or 2 would have responsibility for determining the boundary location. The NRS 1 classification requires a higher level of responsibility than the level assigned to Mr. Burinsky's position.

I understand Mr. Burinsky has experience working at the NRS 1 level, and it appears he takes the initiative to point out issues that arise in the field based on his knowledge and experience. Additionally, the department may at times ask Mr. Burinsky for input regarding a timber sale. However, allocating criteria are based on the assignment of work, not an incumbent's ability to perform higher-level duties. The former Personnel Appeals Board (PAB) addressed allocating criteria as follows:

The purpose of a position review is to determine which classification best describes the overall duties and responsibilities of a position. A position review is neither a measurement of the volume of work performed, nor an evaluation of the expertise with which that work is performed. A position review is a comparison of the duties and responsibilities of a particular position to the available classification specifications. This review results in a determination of the class that best describes the overall duties and responsibilities of the position. See Liddle-Stamper v. Washington State University, PAB Case No. 3722-A2 (1994).

In addition, the Personnel Resources Board (PRB) has previously addressed the issue of occasionally performing higher-level duties as follows:

Most positions within the civil service system occasionally perform duties that appear in more than one classification. However, when determining the appropriate classification for a specific position, the duties and responsibilities of that position must be considered in their entirety and the position must be allocated to the classification that provides the best fit overall for the majority of the position's duties and responsibilities. See Dudley v. Dept. of Labor and Industries, PRB Case No. R-ALLO-07-007 (2007).

As you indicated, Mr. Burinsky was reassigned to a Forest Technician position. In this case, both Mr. Burinsky's supervisor, through his written statements, and the Yacolt District Manager, Mr. Shank, describe an assignment of work consistent with the work envisioned by the Forest Technician class specification. This is also consistent with the duties outlined on the PDF. Mr. Burinsky's position (#6676) is properly allocated to the Forest Technician classification.

Appeal Rights

RCW 41.06.170 governs the right to appeal. RCW 41.06.170(4) provides, in relevant part, the following:

An employee incumbent in a position at the time of its allocation or reallocation, or the agency utilizing the position, may appeal the allocation or reallocation to . . . the Washington personnel resources board Notice of such appeal must be filed in writing within thirty days of the action from which appeal is taken.

The address for the Personnel Resources Board is 2828 Capitol Blvd., P.O. Box 40911, Olympia, Washington, 98504-0911.

If no further action is taken, the Director's determination becomes final.

c: Stephen Burinsky
Shea Richardson, DNR
Tom Hoffer, DNR
Lisa Skriletz, DOP

Enclosure: List of Exhibits